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10 **BEFORE THE**  
**BOARD FOR PROFESSIONAL ENGINEERS AND LAND SURVEYORS**  
**DEPARTMENT OF CONSUMER AFFAIRS**  
11 **STATE OF CALIFORNIA**

12 In the Matter of the Accusation Against:

Case No. 827-A

13 **KEITH FRANCIS DELAPP**  
1333 Cromwell Court  
14 El Dorado Hills, CA 95762  
Civil Engineer No. C 48214

**A C C U S A T I O N**

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16 Respondent.

17 Complainant alleges:  
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19 **PARTIES**

20 1. David E. Brown (Complainant) brings this Accusation solely in his official capacity  
21 as the Executive Officer of the Board for Professional Engineers and Land Surveyors, Department  
22 of Consumer Affairs.

23 2. On or about December 20, 1991, the Board for Professional Engineers and Land  
24 Surveyors issued Civil Engineer Number C 48214 to Keith Francis DeLapp (Respondent).  
25 Respondent's license will expire on June 30, 2010 unless renewed.

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## JURISDICTION

3. This Accusation is brought before the Board for Professional Engineers and Land Surveyors (Board), Department of Consumer Affairs, under the authority of the following laws. All section references are to the Business and Professions Code unless otherwise indicated.

4. Section 101.1(b) of the Code states:

"(1) In the event that any board, as defined in Section 477, becomes inoperative or is repealed in accordance with the act that added this section, or by subsequent acts, the Department of Consumer Affairs shall succeed to and is vested with all the duties, powers, purposes, responsibilities and jurisdiction not otherwise repealed or made inoperative of that board and its executive officer.

"(2) Any provision of existing law that provides for the appointment of board members and specifies the qualifications and tenure of board members shall not be implemented and shall have no force or effect while that board is inoperative or repealed. Every reference to the inoperative or repealed board, as defined in Section 477, shall be deemed to be a reference to the department."

5. Section 118 of the Code states in relevant part:

"(b) The suspension, expiration, or forfeiture by operation of law of a license issued by a board in the department, or its suspension, forfeiture, or cancellation by order of the board or by order of a court of law, or its surrender without the written consent of the board, shall not, during any period in which it may be renewed, restored, reissued, or reinstated, deprive the board of its authority to institute or continue a disciplinary proceeding against the licensee upon any ground provided by law or to enter an order suspending or revoking the license or otherwise taking disciplinary action against the licensee on any such ground.

"(c) As used in this section, 'board' includes an individual who is authorized by any provision of this code to issue, suspend, or revoke a license, and 'license' includes 'certificate,' 'registration,' and 'permit.'"

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1 (30'). Respondent was negligent or incompetent by failing to procure a current General Plan and  
2 Zoning Land use Designation for the property. Respondent's acts constitute negligence or  
3 incompetence within the meaning of section 6775 (c).

#### 4 SECOND CAUSE FOR DISCIPLINE

##### 5 (Breach of Contract (Stevenson))

6 11. Respondent is subject to disciplinary action under section 6749 and 6775(d) in that  
7 respondent failed to have a written agreement with a description of procedures to accommodate  
8 additional services. The circumstances are as follows:

9 12. On or about August 25, 2003 respondent entered an agreement with Kay Lynn and  
10 Albert Stevenson for professional engineering services. Respondent failed to perform the  
11 services as required by county codes. Respondent corrected the work and charged Lynn and  
12 Stevenson for additional work without a prior agreement or provision in the contract for  
13 additional services. Respondent's conduct constitutes a breach of contract by failing to perform  
14 the engineering services competently and by failing to have a written procedure to accommodate  
15 additional services.,

#### 16 THIRD CAUSE FOR DISCIPLINE

##### 17 (Negligence and/or incompetence (Dickens))

18 13. Respondent is subject to disciplinary action under section 6775 (c) in that the  
19 respondent was negligent and/or incompetent in performing engineering services for  
20 James' Dicken's project. The circumstances are as follows:

21 14. On or about July 27, 2004, respondent entered an agreement with property owner,  
22 James Dickens (hereinafter owner), to provide engineering services in connection with the  
23 construction of a residential structure on real property of the owner. In the course of providing  
24 the services, respondent failed to provide the necessary care and coordination with the design  
25 consultants and public entities, failed to include and perform tasks necessary to properly and  
26 competently perform the engineering obligations for the owner, and failed to provide a minimum  
27 number of site visits to ensure respondent's plans were followed by the builder. In addition,  
28 respondent failed to properly review the design plans and note a soils report existed as of the time

1 respondent was engaged to perform the services. In doing the things and/or failing to do the  
2 things set forth herein, respondent violated section 6775 (c).

3 FOURTH CAUSE FOR DISCIPLINE

4 (Breach of Contract (Dickens))

5 15. Respondent is subject to disciplinary action under section 6775 (d) in that the  
6 respondent failed to obtain a written agreement for additional work performed for the owner and  
7 the original agreement omitted a procedure performing additional work. The circumstances are  
8 as follows:

9 16. On or about July 27, 2005, respondent tendered a written agreement to the owner  
10 setting out the services respondent would provide on the owner's project. The agreement was  
11 signed and respondent thereafter embarked on the duties described in the agreement. During the  
12 course of the construction, the project required engineering design services for retaining walls.  
13 Respondent thereafter performed these services without a written agreement with the owner. In  
14 performing these tasks without a written agreement, respondent breached the written agreement  
15 all in violation of sections 6775 (d) and 6749. As the result of respondent's failure to obtain a  
16 written agreement with the owner for additional services, respondent performed work and billed  
17 for services not authorized nor agreed upon by the owner.

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PRAYER

WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged, and that following the hearing, the Board for Professional Engineers and Land Surveyors issue a decision:

1. Revoking or suspending Civil Engineer Number C 48214, issued to Keith Francis DeLapp.

2. Ordering Keith DeLapp to pay the Board for Professional Engineers and Land Surveyors the reasonable costs of the investigation and enforcement of this case, pursuant to Business and Professions Code section 125.3;

3. Taking such other and further action as deemed necessary and proper.

DATED: 6/28/09

*Original Signed*

DAVID E. BROWN  
Executive Officer  
Board for Professional Engineers and Land Surveyors  
Department of Consumer Affairs  
State of California  
*Complainant*

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accusation.rtf